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8  
9 Attorneys for Defendant  
10 BLOOMINGDALE'S, INC.

11 **UNITED STATES DISTRICT COURT**

12 **CENTRAL DISTRICT OF CALIFORNIA**

13 **FATEMEH JOHNMOHAMMADI**, ) Case No 2:11-cv-06434-GW -AJW  
14 individually and on behalf of other )  
15 persons similarly situated, )  
16 Plaintiff, )  
17 vs. )  
18 **BLOOMINGDALE'S, INC.**, and )  
19 DOES 1 through 30, )  
20 Defendants. )

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1           Defendant Bloomingdale's, Inc. submits the following Rule 26(f)  
 2 Report pursuant to Rule 26(f) of the Federal Rules of Civil Procedure and  
 3 Local Rule 26-1 of the Local Rules of this Court. Defendant's counsel  
 4 understands that Plaintiff's counsel is unavoidably detained in trial and is  
 5 currently unavailable to assist in the preparation of this report. Before the  
 6 Court's Scheduling Conference, Defendant's counsel will endeavor to meet  
 7 with Plaintiff's counsel and to prepare a supplemental Joint Rule 26(f)  
 8 Report in conformity with the foregoing rules.

9 **I. STATEMENT OF THE CASE**

10           On July 5, 2011, Plaintiff Fatemeh Johnmohammadi  
 11 (“Johnmohammadi”), a former sales associate in Defendant Bloomingdale's,  
 12 Inc.'s (“Bloomingdale's”) Sherman Oaks store, filed this putative class  
 13 action in Los Angeles Superior Court. On August 5, 2011, Bloomingdale's  
 14 removed the action to this Court in accordance with the Class Action  
 15 Fairness Act, 29 U.S.C. §1332(d).

16           In her putative class action, Johnmohammadi alleges , individually  
 17 and on behalf of all Bloomingdale's California non-exempt store employees  
 18 who earned commission and/or incentive pay, Bloomingdale's (1) failed to  
 19 pay overtime wages, (2) failed to provide accurate wage statements, (3)  
 20 failed to timely pay all earned wages upon termination, and (4) violated  
 21 California's Unfair Competition Law. In its answer, Bloomingdale's  
 22 asserted that Johnmohammadi and the putative class she seeks to represent  
 23 were paid all earned overtime wages based on his or her regular rate of pay,  
 24 received accurate wage statements, and, as applicable, were paid all earned  
 25 wages at the time of his or her termination. Moreover, Bloomingdale's  
 26 asserted that Johnmohammadi, at the time of her hiring, specifically agreed  
 27 to arbitrate all of her employment-related claims in accordance with  
 28

1 Bloomingdale's Early Dispute Resolution program and agreed not to assert  
 2 class or collective claims.

3 **II. SUBJECT MATTER JURISDICTION**

4 Subject matter jurisdiction for this action is based on diversity under  
 5 the Class Action Fairness Act, 28 U.S.C. § 1332(d).

6 **III. KEY LEGAL ISSUES**

7 The key legal issues are as follows:

- 8 • whether Johnmohammadi agreed to arbitrate her employment-  
 9 related disputes under Bloomingdale's Early Dispute Resolution program  
 10 and agreed not to bring class or collective claims;
- 11 • whether Johnmohammadi has standing to raise any or all of the  
 12 claims set forth in her complaint;
- 13 • whether Johnmohammadi is a typical and/or adequate class  
 14 representative, whether there are sufficient predominating issues of law and  
 15 fact, and whether certification is a superior method of adjudicating the  
 16 controversy so as to warrant the certification of Johnmohammadi's proposed  
 17 classes;
- 18 • whether Bloomingdale's properly calculated Johnmohammadi's  
 19 and/ or the putative class's regular rate of pay for purposes of determining  
 20 his or her overtime pay;
- 21 • whether Bloomingdale's itemized wage statements conform  
 22 with California law and, if not, whether Johnmohammadi and/ or the putative  
 23 class sustained any injuries as a result;
- 24 • whether Bloomingdale's paid Johnmohammadi's and/ or the  
 25 putative class's final wages in conformity with the requirements of  
 26 California law.

27 **IV. PARTIES, EVIDENCE, ETC.**

1 Johnmohammadi has asserted individual and class claims that  
2 encompass a wide range of issues. At this stage of the litigation,  
3 Bloomingdale's believes it would be premature and unduly burdensome to  
4 attempt to determine and identify all individuals with discoverable  
5 information as to the putative class claims. The following individuals have  
6 discoverable information pertaining to her individual claims:

7 • Kevin Moore (Operating Vice President – Human  
8 Resources)

9 • Ramon Gandia (Director – Compensation and Benefits)

10 • Paul Philips (Regional Director – Human Resources)

11 • Wiley Bartine (General Manager of the Sherman Oaks  
12 store)

13 • Adrienne Tierney (Human Resource Manager of the  
14 Sherman Oaks store)

15 • Kristin Jamarillo (former Human Resource Manager of  
16 the Sherman Oaks store)

17 • Ann Moyer (former Group Sales Manager of the  
18 Sherman Oaks store)

19 • Gale Hetherington (Group Sales Manager of the Sherman  
20 Oaks store)

22 The key documents pertaining to Johnmohammadi's individual  
23 claims include:

24 • Johnmohammadi's personnel file

25 • Johnmohammadi's loss prevention file

26 • Bloomingdale's Associate Handbook and policies and  
27 procedures relating to Johnmohammadi, including her  
28 compensation agreement;

- Johnmohammadi's clocking records
- Johnmohammadi's payroll records, including extant wage statements
- Bloomingdale's Early Dispute Resolution program, including documents pertaining to the program relating to Johnmohammadi

## V. DAMAGES

Bloomingdale's does not believe that Johnmohammadi or the putative class she seeks to represent have incurred any damages.

## VI. INSURANCE

There is no insurance agreements under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy any monetary judgment.

## VII. CONTEMPLATED MOTIONS

Bloomingdale's is currently contemplating filing a motion to compel Johnmohammadi's individual claims to arbitration and to dismiss her class allegations. In the event Bloomingdale's does not file a motion to compel or if such motion to compel is not granted by this Court, Bloomingdale's contemplates filing a summary judgment motion designed to obtain summary adjudication on all or some of her claims.

## VIII. STATUS OF DISCOVERY

No discovery has occurred to date. Bloomingdale's intends to make its initial disclosure before the Court's Scheduling Conference.

## IX. DISCOVERY PLAN

In the event this matter is not ordered into arbitration, Bloomingdale's intends to propound document requests, interrogatories, and

1 requests for admission and to take Johnmohammadi's deposition.  
 2 Depending on Johnmohammadi's responses to the foregoing written  
 3 discovery and/or Johnmohammadi's deposition testimony, Bloomingdale's  
 4 may undertake additional discovery as warranted.

5 **X. DISCOVERY CUT-OFF**

6 Bloomingdale's believes that no discovery cut-off should be set prior  
 7 to filing any motion for class certification and that discovery should cut-off  
 8 seven weeks before the parties are to file their Memoranda of Contentions of  
 9 Fact and Law pursuant to Local Rule 16-7 (i.e., 14 weeks before trial).

10 **XI. EXPERT DISCOVERY**

11 If necessary, Bloomingdale's believes that Johnmohammadi should  
 12 disclose expert witnesses two weeks before the deadline for filing a class  
 13 certification motion and that Bloomingdale's should disclose expert  
 14 witnesses two weeks before its opposition to class certification is to be filed.

15 **XII. DISPOSITIVE MOTIONS**

16 Bloomingdale's currently contemplates filing a motion to compel  
 17 Johnmohammadi's individual claims to arbitration and, if necessary, filing a  
 18 motion for summary judgment as to some or all of her claims, if appropriate.

19 **XIII. SETTLEMENT**

20 Bloomingdale's would agree to participate in a non-judicial dispute  
 21 resolution proceeding before a private mediator if warranted at a later time,  
 22 pursuant to Local Rule 16-15.4.

23 **XIV. TRIAL ESTIMATE**

24 Bloomingdale's believes it would be premature to set a trial date  
 25 and/or estimate the length of any such trial until this Court rules on  
 26 Bloomingdale's currently contemplated motion to compel arbitration and/or  
 27 Johnmohammadi's motion for class certification.

1 **XV. TRIAL COUNSEL**

2 Trial Counsel for Bloomingdale's: John S. Curtis. It is anticipated  
 3 that, before the Court's Scheduling Conference, David E. Martin and  
 4 Catherine E. Sison will file pro hac vice applications to also represent  
 5 Bloomingdale's interests in this matter and, if such applications are granted  
 6 by this Court, shall serve as additional trial counsel.

7 **XVI. INDEPENDENT EXPERT OR MASTER**

8 At this time, Bloomingdale's believes that this case is not appropriate  
 9 for the appointment of a master pursuant to Rule 53 or an independent  
 10 scientific expert.

11 **XVII. TIMETABLE**

12 Before the Court's Scheduling Conference, Bloomingdale's counsel  
 13 will endeavor to meet with Johnmohammadi's counsel to develop an agreed-  
 14 upon timetable.

15 **XVIII. PROPOSED DATES: MOTION TO COMPEL  
 16 ARBITRATION, CLASS CERTIFICATION, FINAL PRE-  
 17 TRIAL CONFERENCE**

18 Bloomingdale's proposes to enter into a stipulation with  
 19 Johnmohammadi to waive the requirement of Local Rule 23-3, which  
 20 provides that class certification motions be filed 90 days after removal.  
 21 Bloomingdale's further proposes that, if it files a motion to compel  
 22 arbitration, that such motion to compel be filed within two weeks of the  
 23 Court's Scheduling Conference or before October 13, 2011. If necessary  
 24 and following the disposition of Bloomingdale's motion to compel  
 25 arbitration, Bloomingdale's proposes that the Court set a further scheduling  
 26 conference to set the schedule for the remainder of the case.

27 **XIX. MAGISTRATE JUDGE**

1 Bloomingdale's declines to have a Magistrate Judge preside over the  
2 proceedings.

3  
4  
5 Dated: September 16, 2011 BLOOMINGDALE'S, INC.  
6

7 /s/  
8 John S. Curtis, Esq.  
9 Attorneys for Defendant

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LAW OFFICES OF JULIA AZRAEL  
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NORTH HOLLYWOOD, CALIFORNIA 91601

1 PROOF OF SERVICE  
2  
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4

STATE OF CALIFORNIA } ss.:  
COUNTY OF LOS ANGELES }

5 I am employed in the County of Los Angeles, State of California. I  
6 am over the age of 18 and not a party to the within action. My business  
7 address is 5200 Lankershim Boulevard, Suite 850, North Hollywood,  
8 California 91601.

9 On September 16, 2011, I served on interested parties in said action  
10 the within:

11 **DEFENDANT BLOOMINGDALE'S INC.'S RULE 26(f) REPORT**

12  **BY MAIL:** By placing true copies thereof in sealed  
13 envelope(s) addressed as stated on the attached mailing list, and placing it  
14 for collection and mailing following ordinary business practices. I am  
15 readily familiar with this office's practice of collection and processing  
16 correspondence for mailing. Under that practice, sealed envelopes are  
17 deposited with the U.S. Postal Service that same day in the ordinary course  
18 of business with postage thereon fully prepaid at North Hollywood,  
19 California.

20  **BY PDF VIA EMAIL:** I caused the above-referenced  
21 document(s) to be sent via email in pdf format to the attached address(es).

22  **BY OVERNIGHT COURIER:** I caused the above-referenced  
23 document(s) to be delivered to FedEx for delivery to the attached  
24 address(es).

25  **BY FAX:** I transmitted a copy of the foregoing document(s) this  
26 date via telecopier to the facsimile numbers shown above.

27  **BY PERSONAL SERVICE:** I caused such envelope(s) to be  
28 delivered by hand to the offices of the addressee(s).

29  **[State]** I declare under penalty of perjury under the laws  
30 of the State of California that the foregoing is true and correct.

31  **[Federal]** I declare that I am employed in the office of a  
32 member of the bar of this court at whose direction the service was made.

33 Executed on the above referenced date, at North Hollywood,  
34 California.

35 ANGELIQUE MACDONALD

36 (Type or print name)

37 (Signature)

**Johnmohammadi v. Bloomingdale's, Inc.**  
*Case No 2:11-cv-06434-GW -AJW*

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